IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

WP(C).No. 32373 of 2006(D)

E.A.1116/05 IN EP.174/02 IN OS 99/99 OF SUB COURT, ERNAKULAM
OS.99/1999 of PRINCIPAL SUB COURT,ERNAKULAM

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PETITIONER:

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1. A.V.N. BHADRAN,
   SOLE PROPRIETOR, M/S. CLASSIC DESIGNS,
   S/O. A.K.VIJAYAN, SOUTH JANATHA ROAD,
   PALARIVATTOM, KOCHI-25.

2. A.K.VIJAYAN, S/O. A.KANDAN,
   SOUTH JANATHA ROAD, PALARIVATTOM, KOCHI-25.

BY ADV. SRI.K.P.SREEKUMAR
SRI.P.M.SATHEESH

RESPONDENTS:

STATE BANK OF INDIA, REPRESENTED BY
BRANCH MANAGER, S.S.I. BRANCH,
M.G.ROAD, ERNAKULAM.

BY ADV.K.K.CHANDRAN PILLAI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX:

EXT.P1: COPY OF STATEMENT OF ACCOUNTS FROM 1/8/02 TO 18/9/02 MAINTAINED BY FEDERAL BANK, PALARIVATTOM

EXT.P2: COPY OF LETTER DT.24.2.03

EXT.P3: COPY OF LETTER DT.NIL

EXT.P4: COPY OF ARGUMENT NOTE

EXT.P5: COPY OF ORDER DATED 23.8.06 IN EA 1116/05 IN EP.174/02 IN OS 99/99

//True copy//

SHW TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.32373 OF 2006

Dated 17th January 2007

J U D G M E N T

Petitioners are judgment debtors and respondent the decree holder. Petitioners are challenging Ext.P5 order passed by executing court in E.A.1116/05 filed by petitioners to record full satisfaction. Case of petitioners is that pursuant to one time settlement scheme, petitioners expressed willingness for one time settlement which was agreed to by decree holder and as provided under the scheme petitioners paid the entire amount and therefore they are entitled to get recorded full satisfaction. Decree holder opposed the application contending that payment was not made in accordance with the scheme and therefore petitioner is not entitled to the benefit.

2. Under Ext.P5 order learned Sub Judge without considering the contentions raised by petitioners with regard to the liability as provided under Exts.P2 and P3 and without considering the specific case of petitioners that amounts shown in the petition were

paid on the respective dates, dismissed the application holding that on going through the records court is of the opinion that judgment debtors failed to show that full satisfaction of the decree can be recorded. As Ext.P5 order reveals that it was not passed after considering the contentions raised, Ext.P5 order is quashed. Executing court is directed to consider I.A.1116/05 and pass orders afresh after considering the contentions raised by petitioners and objections raised by respondent, in accordance with law.

Writ petition is disposed accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.